REMARKS

Rejection of Claims and Summary of Response

Claims 1-127 were pending. Claims 1-127 were rejected under 35 U.S.C. § 103. Reconsideration and allowance of Claims 1-127 is requested.

Rejection of Claims under 35 U.S.C. § 103

In the Office Action, Claims 1-127 were rejected under 35 U.S.C. § 103 as unpatentable over Kenner et al. (U.S. Patent No. 5,956,716) in view of Guenthner (U.S. Patent No. 6,134,588).

Regarding Claim 1, the Office Action states:

> Kenner teaches apparatus for effecting the provision of content over a network, comprising:
>
> means for receiving a request from a client for specified content (= requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64];
>
> means for ascertaining that the node server transmitted the specified content to the client (= locating audio/video content on servers to transmit to the users) [see Col. 5, Lines 16-64], wherein an owner of the node server is offered an incentive as compensation for transmission of the specified content to the client (= placing advertisements and promotions) [see Col. 4, Lines 7-34 and Col. 19, Lines 8-37].
>
> Kenner further teaches attaching the Regional Identifier (Regional ID) to the query and using the Regional ID to efficiently determine from among many remote index Managers (IMs) 34, which remote IM 34 contains the requested video segments [see Fig. 3 and Col. 16, Lines 14-38 and Col. 18, Lines 26-53]. In addition, Kenner further teach enabling the client to request transmission of the specified content from the node server (= communicating between the web server and the user terminal for transmitting web page and video

clips to the user terminal) [see Fig. 4 and Col. 22, Line 63 to Col. 23, Line 49].

Kenner does not explicitly teach means for communicating to the client the identity of a node server having the specified content stored thereon. However, Guenthner, in the same field of client-server communication for accessing the Web servers that host content requested by the Web browser endeavor, discloses using a list of IP addresses that are returned to the Web client upon an HTTP request wherein each of these IP addresses identifies a server that hosts the particular content that the user of the Web client has requested [see Guenthner, Fig. 3 and Col. 4, Lines 24-42]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teaching of Guenthner into the teaching of Kenner in order enable the client efficiently to request and obtain the specified content stored in a particular server by using the identity of the particular server.

Claim 1 recites:

> Apparatus for effecting the provision of content over a network, comprising:
>
> means for receiving a request from a client for specified content;
>
> means for communicating to the client the identity of a node server having the specified content stored thereon, thereby enabling the client to request transmission of the specified content from the node server; and
>
> means for ascertaining that the node server transmitted the specified content to the client, wherein an owner of the node server is offered an incentive as compensation for transmission of the specified content to the client.

The Office Action contends that the "means for ascertaining that [a] node server transmitted ... specified content to [a] client" recited in Claim 1 is equivalent to (means for) locating audio/video content on servers to transmit to users, which the Office Action contends is taught at column 5, lines 16-64 of the Kenner et al. patent. However, that is not the case. In the second Office Action response in this application (i.e., the

Response to Office Action dated December 1, 2006), Applicant stated (and repeated in the third Office Action response, i.e., the Response to Office Action dated August 23, 2007):

> In the ... [second] Office Action, it is contended that "Kenner discloses locating audio/video content on servers to transmit to the users" and that such description constitutes teaching of means for ascertaining that a node server transmitted specified content to a client. However, that is clearly not the case. Locating audio/video content on servers to transmit to the users simply is not ascertaining that a node server transmitted specified content to a client: identifying that a server has content stored thereon indicates nothing about whether that server actually transmitted the content to another entity. ...

The foregoing remarks still have not been addressed in the present Office Action. In order to advance prosecution of this application, the Examiner must consider and respond to the above remarks regarding the rationale for rejecting Claim 1.

The Office Action contends that the recitation in Claim 1 that "an owner of [a] node server is offered an incentive as compensation for transmission of ... specified content to [a] client" is equivalent to the placing of advertisements and promotions which the Office Action contends is taught at column 4, lines 7-34 and column 19, lines 8-37 of the Kenner et al. patent. However, that is not the case. In the first Office Action response in this application (i.e., the Response to Office Action dated March 2, 2006), Applicant stated:

> The Kenner et al. patent teaches, at column 4, lines 7-34:
>
> > In one embodiment of the invention, the user, a real estate agent, has the capability of receiving up-to-date audio-visual information about a listed property. Presently, a real estate agent spends hours researching relevant aspects of available

> property, to include, inspecting the property, taking photographs of the property, and accumulating information about the property. In fact, the typical agent sees less than 50 percent of the new homes listed because of time constraints. Additional time and effort is spent ascertaining the prospective buyer's desires, introducing the buyer to the range of communities available within a chosen region, researching properties that the potential buyer may be interested in, and then showing these properties to the potential buyer.
>
> According to the invention, a realtor's time will be more effectively used on activities directly related to selling property, and not on time intensive, activities necessary to stay abreast with market conditions. For example, by being able to view the property on a video terminal the realtor will reduce significantly the time spent researching potential properties. The time spent visiting properties with the potential buyer is likewise reduced by being able to introduce the property to the buyer via the video clip. This allows the realtor to devote more time to closings and other administrative duties associated with selling the property. Also, having the video retrieval capability allows the realtor to constantly refresh the customer's memory without having to revisit the property.

As can be seen, that section of the Kenner et al. patent does not discuss the provision of an incentive to a network site owner to allow their site to be used as a node server. Kenner et al. do not teach or suggest that a real estate agent, the agent's client, or the owner of a property being reviewed by the agent and/or client is an owner of a network site that can be incentivized to allow their network site to be used as a node server.

Additionally, in the second Office Action response, Applicant stated (and repeated in the third Office Action response):

> [C]ontrary to the contention in the [second] Office Action, the statement at column 19, lines 35-37 of the Kenner et al. patent that "drug companies may place advertisements about promotional drugs on the video clips for use by the physician" does not constitute teaching that an owner of a node server can be offered an incentive as compensation for transmission of specified content to a client, as recited in Claim 1.

> In Example 2 described in the Kenner et al. patent at column 19, lines 8-37, the third party text database can be analogous to the apparatus recited in Claim 1 (i.e., receives requests for content), the physician can be analogous to the client recited in Claim 1 (i.e., makes requests for content), and a drug video can be analogous to the specified content recited in Claim 1. However, the drug companies are not analogous to node server owners and do not operate node servers. The drug companies do not receive requests for content from physicians nor provide content to physicians. To the extent that the capability of placing an advertisement in a drug video is compensation to a drug company, that is compensation for allowing the drug video (which is produced by the drug company) to be provided to physicians (i.e., compensation to a content owner for allowing its content to be provided to others), not compensation for the physical act of providing the drug videos to physicians (i.e., not compensation for transmitting specified content to others).

The foregoing remarks also still have not been addressed in the present Office Action. Again, in order to advance prosecution of this application, the Examiner must consider and respond to the above remarks regarding the rationale for rejecting Claim 1.

Additionally, the Office Action contends that the recitation in Claim 1 of "enabling [a] client to request transmission of ... specified content from [a] node server" is equivalent to communicating between a web server and a user terminal for transmitting web page and video clips to the user terminal, which the Office Action contends is taught in Fig. 4 and at column 22, line 63 to Column 23, line 49 of the Kenner et al. patent. However, that is not the case. FIG. 1 of the present application illustrates a system 100 in accordance with the invention that includes three components: a core server 101, node servers 102 and clients 103. As stated at page 19, lines 9-16 of Applicant's specification:

> [A] node server is a network site that assists a core server in distributing content on behalf of the core server to one or more clients. Any network site other than one that is part of the core server can potentially perform the functions of a node server in a system according to the invention. The node servers are an "army" that the core server enlists to aid in distributing content to clients.

As has been pointed out in each of the previous Office Action responses in this application, Kenner et al., on the other hand, teach that a user terminal (analogous to a "client" in Claim 1 and FIG. 1) communicates a request for a video (content) to a PIM 22 (which can be analogous to a core server in FIG. 1) which creates a DSI 30 which requests transmission of video clips of the video to the user terminal, i.e., Kenner et al. teach that a client makes a request for transmission of content to a core server, which then operates to effect transmission of that content. Kenner et al. do not teach that a client requests transmission of content from a node server, contrary to the contention in the Office Action. In fact, such contention is contradicted by the immediately subsequent statement in the Office Action that "Kenner does not explicitly teach means for communicating to the client the identity of a node server having the specified content stored thereon:" if the identity of a node server is not communicated to the client, it is not possible for the client to request transmission of content from a node server.

Finally, even assuming arguendo that Guenthner et al. teach, as apparently contended in the Office Action, "means for communicating to [a] client the identity of a node server having ... specified content stored thereon," as recited in Claim 1

(which node server identification enables the client to request transmission of the specified content from the node server), it would not have been obvious to combine such teaching of Guenthner et al. with the teaching of Kenner et al., contrary to the contention in the Office Action. The Office Action states that "[i]t would have been obvious ... to incorporate [such] teaching of Guenthner into the teaching of Kenner in order [to] enable the client efficiently to request and obtain the specified content stored in a particular server by using the identity of the particular server." However, as discussed above, Kenner et al. particularly teach an invention in which a PIM (and its proxy, a DSI) - i.e., an entity comparable to a core server, rather than a node server, in the invention of the present application - direct download of video clips (content) to a user terminal (client). As previously noted in the first Office Action response:

> Kenner et al. further teach, at column 7, lines 14-35 of the Kenner et al. patent (emphasis added):
>
> > FIG. 1 illustrates a preferred embodiment of the video clip storage and retrieval system, showing its structural hierarchy and the various modules which comprise the system. As shown, the system comprises one or more user terminals 14, a local storage and retrieval unit ("local SRU") 18, a data sequencing interface (DSI) 30, one or more extended storage and retrieval units ("extended SRUs") 26, and one or more index managers ("IM") 22.
> >
> > By way of a system overview, video clips are stored primarily on extended SRUs 26, and are tracked and distributed by the IMs 22. A user obtains videos of interest by communicating with a primary index manager ("PIM") 22 via a local SRU 18. The PIM 22 locates the requested video clips and creates a DSI 30 to direct the efficient download of the video clips to the user terminal 14. The connections between terminal 14 and the

> local SRU 18 can be within the same computer, or between two or more computers located within a building, which are linked together on a local area network.

Consequently, it is clear that any teaching, whether by Guenthner et al. or anyone else, regarding "communicating to [a] client the identity of a node server having ... specified content stored thereon, as recited in Claim 1 (which node server identification enables the client to request transmission of the specified content from the node server), would be of no use and incompatible with the invention taught by Kenner et al., and thus it would not be obvious to combine such teaching with the teaching of Kenner et al. to produce an invention as recited in Claim 1.

In view of the foregoing, Claim 1 is allowable over the combined teaching of Kenner et al. and Guenthner et al. Claims 2-34 each depend, either directly or indirectly, on Claim 1 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 35, the Office Action states:

> Kenner teaches apparatus for effecting the provision of content over a network, comprising:
>
> means for receiving a request for content from a client (= requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64]; and
>
> means for determining the location of the client within the network, means for identifying the location of a plurality of node servers within the network that have at least part of the requested content stored thereon (= attaching the Regional Identifier (Regional ID) to the query and using the Regional ID to efficiently determine from among many remote Index Managers (IMs) 34, which remote IM 34 contains the requested video

segments) [see Fig. 3 and Col. 16, Lines 14-38 and Col. 18, Lines 26-53], and

means for selecting from the plurality of node servers one or more candidate node servers that are determined to be topologically proximate to the client (= determining the closest server containing the request video clips and geographical distribution) [see Fig. 4 and Abstract and Col. 5, Lines 39-64 and Col. 16, Lines 14-61 and Col. 23, Lines 3-65].

In addition, Kenner further teach enabling the client to request transmission of the requested content via the network from one or more of the candidate node servers (= communicating between the web server and the user terminal for transmitting web page and video clips to the user terminal) [see Fig. 4 and Col. 22, Line 63 to Col. 23, Line 49].

Kenner does not explicitly teach means for communicating the identity of the candidate node servers to the client. However, Guenthner, in the same field of client-server communication for accessing the Web servers that host content requested by the Web browser endeavor, discloses using a list of IP addresses that are returned to the Web client upon an HTTP request wherein each of these IP addresses identifies a server that hosts the particular content that the user of the Web client has requested [see Guenthner, Fig. 3 and Col. 4, Lines 24-42]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teaching of Guenthner into the teaching of Kenner in order enable the client efficiently to request and obtain the specified content stored in a particular server by using the identity of the particular server.

Claim 35 recites (emphasis added):

> Apparatus for effecting the provision of content over a network, comprising:
>
> means for receiving a request for content from a client;
>
> means for determining the location of the client within the network;
>
> means for identifying the location of a plurality of node servers within the network that have at least part of the requested content stored thereon;
>
> means for selecting from the plurality of node servers one or more candidate node servers that are determined to be topologically proximate to the client; and

means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers.

For reasons similar to those discussed above with respect to Claim 1, it would not be obvious to combine the teaching of Kenner et al. and Guenthner et al. to produce "[a]pparatus for effecting the provision of content over a network, comprising: ... means for communicating the identity of ... candidate node servers to [a] client to enable the client to request transmission of ... requested content via [a] network from one or more of the candidate node servers," as recited in Claim 35. In view of the foregoing, Claim 35 is allowable over the teaching of Kenner et al. Claims 36-51 each depend, either directly or indirectly, on Claim 35 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 52, the Office Action states:

> Kenner teaches apparatus for effecting the provision of content over a network, comprising:
>
> means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node servers that are part of the network, wherein at least one of the plurality of sets of content or parts of the plurality of sets of content is stored on redundant node servers (= attaching the Regional Identifier (Regional ID) to the query and using the Regional ID to efficiently determine from among many remote Index Managers (IMs) 34, which remote IM 34 contains the requested video segments) [see Fig. 3 and Col. 16, Lines 14-38 and Col. 18, Lines 26-53];
>
> means for receiving a request from a client that is part of the network for transmission of a set of content to the client, wherein at least part of the requested set of content is stored on redundant node servers (= requesting and retrieving video clips by the

user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64];

means for selecting from the plurality of node servers one or more candidate node servers that have stored thereon at least part of the requested set of content (= determining the closest server containing the request video clips and geographical distribution) [see Fig. 4 and Abstract and Col. 5, Lines 39-64 and Col. 16, Lines 14 61 and Col. 23, Lines 3-65].

In addition, Kenner further teach enabling the client to request transmission of the requested content via the network from one or more of the candidate node servers (= communicating between the web server and the user terminal for transmitting web page and video clips to the user terminal) [see Fig. 4 and Col. 22, Line 63 to Col. 23, Line 49].

Kenner does not explicitly teach means for communicating the identity of the candidate node servers to the client. However, Guenthner, in the same field of client-server communication for accessing the Web servers that host content requested by the Web browser endeavor, discloses using a list of IP addresses that are returned to the Web client upon an HTTP request wherein each of these IP addresses identifies a server that hosts the particular content that the user of the Web client has requested [see Guenthner, Fig. 3 and Col. 4, Lines 24-42]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teaching of Guenthner into the teaching of Kenner in order enable the client efficiently to request and obtain the specified content stored in a particular server by using the identity of the particular server.

Claim 52 recites (emphasis added):

> Apparatus for effecting the provision of content over a network, comprising:
>
> means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node servers that are part of the network, wherein at least one of the plurality of sets of content or parts of the plurality of sets of content is stored on redundant node servers;
>
> means for receiving a request from a client that is part of the network for transmission of a set of content to the client, wherein at least part of the requested set of content is stored on redundant node servers;

> means for selecting from the plurality of node servers one or more candidate node servers that have stored thereon at least part of the requested set of content; and
>
> means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers.

For reasons similar to those discussed above with respect to Claim 1, it would not be obvious to combine the teaching of Kenner et al. and Guenthner et al. to produce "[a]pparatus for effecting the provision of content over a network, comprising: ... means for communicating the identity of ... candidate node servers to [a] client to enable the client to request transmission of ... requested content via [a] network from one or more of the candidate node servers," as recited in Claim 52. In view of the foregoing, Claim 52 is allowable over the teaching of Kenner et al. Claims 53-68 each depend, either directly or indirectly, on Claim 52 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 69, the Office Action states:

> Claim 69 is rejected under the same rationale set forth above to claim 52. In addition, Kenner further teaches a television set top box [see Col. 8, lines 14-25 and Col. 21, Lines 19-35].

Claim 69 recites (emphasis added):

> Apparatus for effecting the provision of content over a television network, comprising:
>
> means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node server television set-top boxes that are part of the network;
>
> means for receiving a request from a client television set-top box that is part of the network for transmission of a set of content to the client

television set-top box, wherein at least part of the requested set of content is stored on one or more node server television set-top boxes;

means for selecting from the one or more node server television set-top boxes one or more candidate node server television set-top boxes; and

means for communicating the identity of the candidate node server television set-top boxes to the client television set-top box to enable the client television set-top box to request transmission of the requested content via the network from one or more of the candidate node server television set-top boxes.

For reasons similar to those discussed above with respect to Claim 1, it would not be obvious to combine the teaching of Kenner et al. and Guenthner et al. to produce "[a]pparatus for effecting the provision of content over a television network, comprising: ... means for communicating the identity of ... candidate node server television set-top boxes to [a] client television set-top box to enable the client television set-top box to request transmission of ... requested content via [a] network from one or more of the candidate node server television set-top boxes," as recited in Claim 69. In view of the foregoing, Claim 69 is allowable over the teaching of Kenner et al. Claims 70-76 each depend, either directly or indirectly, on Claim 69 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 77, the Office Action states that "Claim 77 is rejected under the same rationale set forth above to claim 1." Claim 77 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 1. Claims 78-94 each depend, either directly or

indirectly, on Claim 77 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 95, the Office Action states that "Claim 95 is rejected under the same rationale set forth above to claim 35." Claim 95 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 35. Claims 96-107 each depend, either directly or indirectly, on Claim 95 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 108, the Office Action states that "Claim 108 is rejected under the same rationale set forth above to claim 52." Claim 108 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 52. Claims 109-120 each depend, either directly or indirectly, on Claim 108 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 121, the Office Action states that "Claim 121 is rejected under the same rationale set forth above to claim 1." Claim 121 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 1.

Regarding Claim 122, the Office Action states that "Claim 122 is rejected under the same rationale set forth above to claim 35." Claim 122 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 35.

Regarding Claim 123, the Office Action states that "Claim 123 is rejected under the same rationale set forth above to claim 52." Claim 123 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 52.

Regarding Claim 124, the Office Action states that "Claim 124 is rejected under the same rationale set forth above to claim 1." Claim 124 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 1.

Regarding Claim 125, the Office Action states that "Claim 125 is rejected under the same rationale set forth above to claim 35." Claim 125 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 35.

Regarding Claim 126, the Office Action states that "Claim 126 is rejected under the same rationale set forth above to claim 52." Claim 126 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 52.

Regarding Claim 127, the Office Action states that "Claim 127 is rejected under the same rationale set forth above to claim 69." Claim 127 is allowable over the combined teaching of Kenner et al. and Guenthner et al. for the same reasons as given above with respect to Claim 69.

In view of the foregoing, it is requested that the rejection of Claims 1-127 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Claims 1-127 were pending and were rejected. In view of the foregoing, it is requested that Claims 1-127 be allowed. If the Examiner wants to discuss any aspect of this application, the Examiner is invited to telephone Applicant's undersigned attorney at (408) 945-9912.

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, facsimile number (571) 273-8300, on August 25, 2008.

8-25-08 David R. Graham
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Respectfully submitted,

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